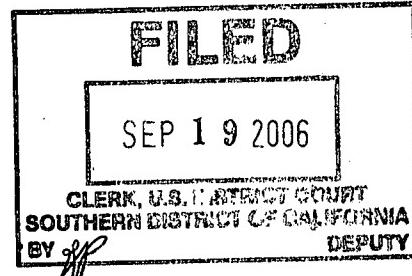


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7 Attorneys for Plaintiff
UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Magistrate Case No. 06MG1635

06C R 2030 - W

**STIPULATION OF FACT AND JOINT
MOTION FOR RELEASE OF
MATERIAL WITNESS(ES) AND
ORDER THEREON**

Defendant.

(Pre-Indictment Fast-Track Program)

IT IS HEREBY STIPULATED AND AGREED between the plaintiff, UNITED STATES OF AMERICA, by and through its counsel, Carol C. Lam, United States Attorney, and Luella M. Caldito, Assistant United States Attorney, and defendant AURELIO IBARRA-RODRIGUEZ, by and through and with the advice and consent of defense counsel, Mary F. Prevost, Esq., that:

1. Defendant agrees to execute this stipulation on or before the first preliminary hearing date and to participate in a full and complete inquiry by the Court into whether defendant knowingly, intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead guilty to the pre-indictment information charging defendant with a non-mandatory minimum count of Bringing in Aliens Without Presentation and Aiding and Abetting, in violation of 8 U.S.C. § 1324(a)(2)(B)(iii) and 18 U.S.C. § 2.

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2. Defendant acknowledges receipt of a plea agreement in this case and agrees to provide the signed, original plea agreement to the Government not later than five business days before the disposition date set by the Court.

3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or before **October 4, 2006**.

4. The material witness, Maria Robledo-Lopez, in this case:

- a. Is an alien with no lawful right to enter or remain in the United States;
 - b. Entered or attempted to enter the United States illegally on or about 06;
 - c. Was found in a vehicle driven by defendant at the San Ysidro, California Port E) and that defendant knew or acted in reckless disregard of the fact that she was an lawful right to enter or remain in the United States;
 - d. Was having others pay on her behalf \$1,500 to others to be brought into the illegally and/or transported illegally to her destination therein; and,
 - e. May be released and remanded immediately to the Department of Homeland return to her country of origin.

5. After the material witnesses are ordered released by the Court pursuant to this stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding, including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

a. The stipulated facts set forth in paragraph 4 above shall be admitted as substantive evidence:

b. The United States may elicit hearsay testimony from arresting agents regarding any statements made by the material witness(es) provided in discovery, and such testimony shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest of (an) unavailable witness(es); and.

c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),
Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
United States v. Aurelio Ibarra-Rodriguez 2 06MG1635

“testimonial” hearsay statements are not admissible against a defendant unless defendant confronted and cross-examined the witness(es) who made the “testimonial” hearsay statements, defendant waives the right to confront and cross-examine the material witness(es) in this case.

4 6. By signing this stipulation and joint motion, defendant certifies that defendant has
5 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
6 further that defendant has discussed the terms of this stipulation and joint motion with defense
7 counsel and fully understands its meaning and effect.

8 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
9 immediate release and remand of the above-named material witness(es) to the Department of
10 Homeland Security for return to her country of origin.

11 It is STIPULATED AND AGREED this date.

Respectfully submitted,

CAROL C. LAM
United States Attorney

15 Dated: 9-19-06

LUELLA M. CALDITO
Assistant United States Attorney

17 Dated: 9. 19. 08

MARY F. PREVOST
Defense Counsel for IBARRA-RODRIGUEZ

20 Dated: 9/906

Aurelio Ibarra R
AURELIO IBARRA-RODRIGUEZ
Defendant

ORDER

Upon joint application and motion of the parties, and for good cause shown,
THE STIPULATION is admitted into evidence, and,
IT IS ORDERED that the above-named material witness(es) be released and remanded
forthwith to the Department of Homeland Security for return to her country of origin.

SO ORDERED.

Dated: 9-19-06

Rita Homan
United States Magistrate Judge

**28 | Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
United States v. Aurelio Ibarra-Rodriguez**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)
Plaintiff)
vs.)
Aurelio Ibarra-Rodriguez)
Defendant(s))

)

CRIMINAL NO. OGCR 2030-W
06MGI635-NLS
ORDER

RELEASING MATERIAL WITNESS

Booking No. 95 396198

On order of the United States District/Magistrate Judge, Stormes.

IT IS HEREBY ORDERED that the following named person heretofore committed to the custody of the United States Marshal as a material witness be released from custody: (Bond Posted / Case Disposed Order of Court).

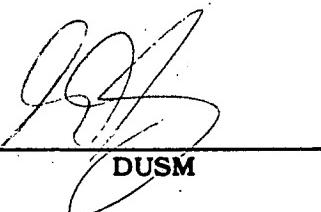
Maria Robledo-Lopez

DATED: 9-19-06

NITA L. STORMES

UNITED STATES DISTRICT/MAGISTRATE JUDGE

RECEIVED



OR

W. SAMUEL HAMRICK, JR. Clerk

by 
Deputy Clerk